

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

GUIZAR-CUELLAR,

Defendant.

Case No. 16-cr-00150-BLF-1

**ORDER DENYING ALYSSA
ANTHONY'S MOTION FOR
RESTITUTION WITHOUT
PREJUDICE**

On December 13, 2022, Alyssa Anthony filed a victim loss statement and motion for restitution in the above-captioned case as to Defendant Ariel Guizar-Cuellar. ECF No. 753 (“Mot.”). Anthony asserts that she is entitled to restitution under the Mandatory Victim Restitution Act and that her restitution must be calculated using the same formula as the other victims. *Id.* at 1-3. She also argues that the charges against her do not eliminate her right to restitution. *Id.* at 3-5. For the reasons discussed on the record and explained below, the Court **DENIES** the motion.

The Ninth Circuit has held that “in the absence of exceptional circumstances, a co-conspirator cannot recover restitution.” *United States v. Lazarenko*, 624 F.3d 1247, 1249 (9th Cir. 2010). The Court finds that no such exceptional circumstances apply here. Anthony was charged as a co-conspirator in the indictment. ECF No. 1. She entered a guilty plea, which she is now seeking to withdraw. ECF Nos. 251 (plea), 669 (motion to withdraw). The circumstances of this case are distinguishable from *United States v. Sanga*, 967 F.2d 1332 (9th Cir. 1992), in which the Ninth Circuit allowed a co-conspirator to receive restitution. In that case, the court considered the individual’s “non-participation in the victimizing behavior,” as well as “the fact that [the individual] was not named as a co-conspirator in the indictment; that she had a very minor role in

1 the conspiracy; and that her persecution began *after the completion* of her small part of the
2 conspiracy.” *Lazarenko*, 624 F.3d at 1252 (summarizing its decision in *Sanga*).

3 The Court therefore DENIES Anthony’s motion for restitution WITHOUT PREJUDICE to
4 filing an individual restitution action.

5 **IT IS SO ORDERED.**

6
7 Dated: December 13, 2022



BETH LABSON FREEMAN
United States District Judge